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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/576,007

04/14/2006

Nigel James Gibbins

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EXAMINER

SONG, DAEHO D

ART UNIT

PAPER NUMBER

2176

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/576,007	<b>Applicant(s)</b> GIBBINS, NIGEL JAMES	
	<b>Examiner</b> DAEHO D. SONG	<b>Art Unit</b> 2176	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/14/06</u>   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This is the initial Office Action based on the application number 10576007, filed April 14, 2006. Claims 1-19, as originally filed, are currently pending and have been considered below. Claims 1, 10, 12, 15 and 16 are the independent claims.

#### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 10 and 11 are rejected because the claimed invention is directed to non-statutory subject matter. Claim 10 recites a “*server*”, comprising an IP address, a database, and means for communicating, which are software components. Thus, the server recited in Claim 10 is software *per se*. That is, the “*server*” recited in Claim 10 lacks the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC §101. Also, the “*server*” recited in Claim 10 is clearly not a series of steps or acts to be a process nor is it a combination of chemical compounds to be a composition of matter. As such, it fails to fall within a statutory category.

Claim 11 depends upon Claim 10, and merely recite additional features of the software modules.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Eryurek et al. (hereinafter Eryurek): U.S. Patent Application Pub. No. 2004/0186927.

Eryurek teaches:

*Claim 1. A hardware device for performing a task in an installation, comprising means for generating and reporting status data indicative of a status of the device or the installation ([0013]: generating status information of various devices of the plant); a memory for storing a stylesheet for creating a pictorial representation of the device so that a computer can access the stylesheet and the status data ([0040]: storing a stylesheet, i.e. XSL, for accessing the status information), to create the pictorial representation of the device and to populate the pictorial representation of the device with the status data (figs. 5-20; [[0013][0029]-[0033][0044][0060][0064][0065][0069]:*

creating and presenting graphical depictions of the device status information).

*Claim 9. A manufacturing or service installation comprising a plurality of hardware devices according to claim 1 at least two of the plurality of hardware devices having sensing means for sensing an operating parameter and for reporting status data indicative of a status of the installation, and a computer connected to the at least two of the plurality of hardware devices for receiving and storing stylesheets and status data from the at least two of the plurality of hardware devices and for creating a composite pictorial representation of the plurality of hardware devices and populating the composite pictorial representation with the status data (fig. 1; [0034]-[0039]: a plurality of devices in networks).*

*Claim 11. The server according to claim 10 further comprising an active server page file that interrogates the database to create a dynamic file that is accessible from the remote application (fig. 2; [0046]).*

*Claim 18. The hardware device as in claim 1 wherein the means for generating and recording is a computer (fig. 1; [0034]-[0038]).*

*Claim 19. The hardware device as in claim 18 wherein the computer includes the memory for storing a stylesheet for creating a pictorial representation of the device ([0098]).*

*Claim 2. The hardware device according to claim 19 further comprising a computer for receiving the stylesheet to create the pictorial representation of the hardware device and to populate the pictorial representation with the status data ([0040][0044]).*

*Claim 3. The hardware device according to claim 2 wherein the computer for receiving the stylesheet is arranged as an Internet/Intranet web server for delivering the pictorial representation to a remote computer for display at the remote computer (figs. 1 & 2; [0034][0046]).*

*Claim 4. The hardware device according to claim 2 wherein the computer includes means for analysing the status data to create derived status data; and for populating the stylesheet with the derived status data ([0041][0053]).*

*Claim 5. The hardware device according to claim 4 wherein the means for analysing the status data comprises a data trend analysis software module ([0077]).*

*Claim 6. The hardware device according to claim 4 wherein the computer for receiving the stylesheet to create the pictorial representation of the hardware device and to populate the pictorial representation with the status data comprises a plurality of computers for receiving status data from corresponding ones of a plurality of hardware devices, said plurality of computers having different Internet Protocol addresses, and wherein the means for analysing the status data comprises a comparison of the status*

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*data from the corresponding ones of the plurality of hardware devices (figs. 5-20; [0034][0040][0041][0044][0053]).*

*Claim 7. The hardware device according to claim 4 further comprising means for modifying the stylesheet to accommodate the derived status data ([0071]).*

*Claim 8. The hardware device according to claim 3 wherein the status data is in extensible mark-up language (XML) and the stylesheet is in extensible stylesheet language (XSL) ([0040]).*

*Claims 10, 12, 15 and 16:*

The subject matter recited in Claims 10, 12, 15 and 16 corresponds to the subject matter recited in Claim 1. Thus Eryurek discloses every limitation of Claims 10, 12, 15 and 16, as indicated in the above rejections for Claim 1.

*Claims 13 and 14:*

The subject matter recited in Claims 13 and 14 corresponds to the subject matter recited in Claims 4 and 7, respectively. Thus Eryurek discloses every limitation of Claims 13 and 14, as indicated in the above rejections for Claims 4 and 7.

*Claim 17:*

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The subject matter recited in Claim 17 corresponds to the subject matter recited in Claim 2. Thus Eryurek discloses every limitation of Claim 17, as indicated in the above rejections for Claim 2.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAEHO D. SONG whose telephone number is (571)272-7524. The examiner can normally be reached on Mon-Fri 7:30-5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Hutton can be reached on 5712724137. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Daeho D Song/  
Examiner, Art Unit 2176

/Rachna S Desai/  
Primary Examiner, Art Unit 2176